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PATENT
APPLICATION 09/843,289
ATTORNEY DOCKET 2005P12928US (1120-005)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) Atwater, Antonio
Application 09/843,289
Confirmation 7918
Filed 24 April 2001
Application Title Method and apparatus for receiving full-motion digital video multi-casts,
interactive data and interactive voice via a DSL circuit
Art Unit 2616
Latest Examiner Nguyen, Phuongchau Ba

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

Sir:

I, Jun Shan Wey, a citizen of the United States, whose full post office address is 20424 NE 41st Street, Sammamish, WA 98074, declare as follows under penalty of perjury.

Background

- 1) I hold a Ph.D. degree in Electrical Engineering awarded in 1995 by the University of Maryland.
- 2) I hold a Master of Science degree in Electrical Engineering awarded in 1989 by the University of Maryland.
- 3) I hold a Bachelor of Science degree in Electrical Engineering awarded by the

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National Chiao Tung University, Hsinchu, Taiwan.

- 4) I am currently a Senior Technical Project Manager with Nokia Siemens Networks.
- 5) Since 1993, I have worked continually in the field of electrical engineering with particular emphasis in Internet Protocol television, video codecs, encryption, optical and wireless devices and systems, and software development.
- 6) During my career, I have been granted one U.S. patent for my own inventions in the field of optical signal distribution.

Review

- 7) I have reviewed Application Serial No. 09/843,289 (the "present application").
- 8) I know what one of ordinary skill in the art of the present application would have known on the priority date claimed by the present application (24 April 2001).
- 9) I have reviewed the USPTO Office Action dated 6 September 2007 (the "Office Action") regarding the present application.
- 10) I have reviewed U.S. Patent No. 6,346,964 ("Rogers").
- 11) Among the devices, systems, and methods with which I was familiar prior to 24 April 2001 were devices, systems, and methods of the type recited in Rogers.
- 12) I have reviewed U.S. Patent No. 5,941,951 ("Day").
- 13) Among the devices, systems, and methods with which I was familiar prior to 24 April 2001 were devices, systems, and methods of the type recited in Day.

No Reasonable Expectation of Success in Combining Rogers With Day

- 14) As amended, each of independent claims 25, 46, 58, 75, and 81, states, *inter alia*, a "sending" a "response" with an "identification" or "indication" "of the identified channels", "the response" "sent using HTTP protocol" and "identifying the IP multicast group assigned to each identified channel".
- 15) The Office Action recites, regarding combining applied portions of Rogers and Day Pages 3, "it would have been obvious to an artisan to apply Day's teaching to Roger's

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system with the motivation being to enable user to access or schedule a multimedia data presentation in a more efficient and reliable manner'

- 16) One skilled in the art would find this statement of the Office Action recited in paragraph 15 factually incorrect as of 24 April 2001.
- 17) One skilled in the art would have found that Rogers states, at col. 9, lines 34-49:
- [a] TV tuner board 464 can also be provided within broadband data switch 450 for connection to a cable television source. The input broadcast television signal is split into 5 separate signals, one for each tuner. In various embodiments, TV tuner board includes a signal splitter and 5 separate TV tuners each of which can independently tune to a different channel based on commands received from controller unit 457. These commands can be generated by individual users at teleconferencing stations such as those shown in FIG. 3. The TV signals can be forwarded to individual user's desktops over existing telephone lines through modem/diplexers 451 through 453. This allows each user to watch a broadcast or cable TV program at his desk over existing telephone lines and tune to any of various stations
- 18) One skilled in the art would have found that Day states, at col. 5, lines 48-65:
- Network implementation 40 of the present invention can be used to deliver real-time (streamed) video/audio to any network-connected clients, including those on the Internet or an intranet, using standard LAN technology with TCP/IP and FTP. An Internet 'web browser' can be used to select a video for viewing (such as a short clip or commercials, or a full-length film). A variety of encoding formats can be supported for delivery of video streams, including RTP, TCP, HTTP and IP multicast. A presentation formatter server can provide presentation format pages to initiate a common gateway interface (CGI) program used to facilitate client requests. The presentation formats might include specific video

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selection (where the name or other access parameter of a desired file is already known), video-on-demand (allowing a client to select an asset from a dynamically generated list), and joining multicast sessions (previously scheduled video broadcasts to a group of clients, such as students enrolled in a distance-learning class).

- 19) One skilled in the art as of 24 April 2001 would not have found that the "TV tuner board 464" of Rogers would be able to recognize or operatively utilize "video streams, including RTP, TCP, HTTP and IP multicast" "formats" or "standard LAN technology with TCP/IP and FTP".
- 20) Thus, one skilled in the art would not have had a reasonable expectation of success in combining the applied portions of Rogers with the applied portions of Day to arrive at the claimed subject matter of claims 25-100.

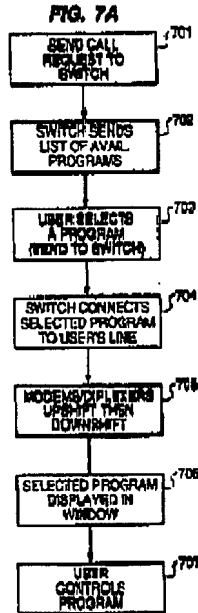
Rogers Does Not Teach the Claimed Subject Matter

- 21) As amended, each of independent claims 25, 46, 58, 75, and 81, states, *inter alia*, a "sending" a "response" with an "identification" or "indication" "of the identified channels", "the response" "identifying the IP multicast group assigned to each identified channel".
- 22) The Office Action asserts that this claimed subject matter is taught by Rogers at "fig. 7a, step 702".
- 23) One skilled in the art would find this statement of the Office Action recited in paragraph 22 factually incorrect as of 24 April 2001.

One skilled in the art would have found that Fig. 7a of Rogers merely illustrates:

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24) One skilled in the art would have found that step 702 merely discloses "switch sends list of avail. programs".

25) One skilled in the art would not have found that this applied portion of Rogers teaches:

- i. "sending" anything to the "subscriber unit" in "response to" any received request";
- ii. any "indication of the identified channels" as one having ordinary skill in the art would interpret the claim term "channels";
- iii. any "response" whatsoever "sent using HTTP protocol"; or
- iv. "identifying the IP multicast group assigned to each identified channel"

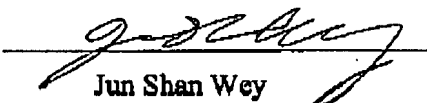
26) Consequently, as of 24 April 2001, "fig. 7a, step 702" of Rogers do not teach to one of ordinary skill in the art at least "sending" a "response" with an "identification" or "indication" "of the identified channels", "the response" "sent using HTTP protocol" and "identifying the IP multicast group assigned to each identified channel" as claimed by each of independent claims 25, 46, 58, 75, and 81.

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27) Moreover, as of 24 April 2001, one skilled in the art would not have found that the applied portions of Rogers would have enabled one having ordinary skill in the art to practice at least the claimed subject matter of at least "sending" a "response" with an "identification" or "indication" "of the identified channels", "the response" "sent using HTTP protocol" and "identifying the IP multicast group assigned to each identified channel" as claimed by each of independent claims 25, 46, 58, 75, and 81.

I further declare that all statements made herein of my own knowledge are true and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 2nd day of November 2007


Jun Shan Wey